

Message Text

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FM AMEMBASSY QUITO

TO USIA WASHDC

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FOR GENERAL COUNSEL HIDALGO AND ASST. DIRECTOR DILLON FROM
THE AMBASSADOR

E.O. 11652: N/A

TAGS: OEXC EC

SUBJECT: LIQUIDATION OF QUITO BNC

REF: DILLON-BELL TELECON, MARCH 18

DILLON-BREWSTER TELECON, MARCH 20

1. THE REMAINING ISSUES WITH RESPECT CLOSING OF QUITO BNC
CONCERN FINANCIAL ARRANGEMENTS FOR PAYMENT OF REMAINING BNC
DEBTS. TO THE BEST OF OUR KNOWLEDGE AND AS REPORTED IN THE
LIQUIDATOR'S REPORT OF JANUARY 24, THESE WILL INCLUDE FEES
OF BNC LAWYER FALCONI, LIQUIDATOR'S FEE, AND APPROXIMATELY
\$6,000 IN PAYMENTS PENDING.

2. FALCONI HAS ASKED FOR U.S. \$25,000 IN FEES. LIQUIDATOR
BELIEVES HE WILL SETTLE FOR U.S. \$20,000. OF COURSE THIS
TYPE OF FEE IS NEGOTIABLE. HE HAS ALREADY RECEIVED
200,000 SUCRES OR U.S. \$8,080, PRESUMABLY IN PARTIAL PAYMENT
OF THESE FEES. THE LIQUIDATOR HAS RECEIVED THE EQUIVALENT
OF U.S. \$2,500 AGAINST A FEE WHICH HE SAID VERBALLY WOULD
BE U.S. \$5,000. AS OF THIS READING, THEN, THE BNC WILL
HAVE OUTSTANDING DEBTS HENCEFORTH OF JUST ABOVE U.S.
\$20,000 IN THE ABSENCE OF FURTHER SUCCESSFUL CLAIMS, IF
THEY SHOULD BE MADE, BY FORMER BNC EMPLOYEES.

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3. AGAINST THIS TOTAL, THERE WAS AS OF JANUARY 24 ABOUT U.S.

\$3,000 IN CASH HELD BY THE LIQUIDATOR PLUS THE INVENTORY OF BNC MOVABLE PROPERTY NOW IN STORAGE. ACCORDING TO THE INVENTORY TAKEN BY THE LIQUIDATOR AS OF FEBRUARY 12, THE APPRAISED VALUE IS ABOUT U.S. \$17,000. HOWEVER, THE SALE VALUE WILL PROBABLY BE CONSIDERABLY LESS.

4. FOR THE NEXT STEP I RECOMMEND THAT DR. BUSTAMANTE BE REQUESTED TO ASK THE LIQUIDATOR TO PUT UP REMAINING BNC PHYSICAL ASSETS FOR PUBLIC AUCTION, INCLUDING THE LANGUAGE LABORATORY, AND THE PROCEEDS TURNED OVER TO THE LIQUIDATOR FOR PARTIAL SETTLEMENT FIRST OF REMAINING PAYMENTS DUE AND THEN OF FEES. ONLY AT THAT TIME WILL IT BE KNOWN HOW MUCH MORE MONEY WOULD BE REQUIRED TO MEET REMAINING FEES.

5. FOLLOWING THIS STEP, I STRONGLY RECOMMEND THAT THE AGENCY SEND SOMEONE TO QUITO EMPOWERED TO NEGOTIATE A SETTLEMENT EITHER WITH FALCONI OR THE LIQUIDATOR, OR WITH BOTH IF NECESSARY. BY THAT TIME WE SHOULD BE AWARE OF ANY FURTHER CLAIMS BY FORMER BNC EMPLOYEES, AN EVENTUALITY THAT AS OF NOW APPEARS UNLIKELY.

6. I RECOGNIZE THAT THIS IS NOT A NEAT SOLUTION, AND THAT THE AGENCY MAY HAVE LATER INFORMATION THAN IS AVAILABLE TO ME. (FOR EXAMPLE, THERE IS NO EVIDENCE HERE OF A REPLY HAVING BEEN MADE TO DR. BUSTAMANTE'S LETTER OF FEB. 11 TO MR. HIDALGO.) IN ANY EVENT, THE STEPS OUTLINED MAY HELP AVOID THE USG'S DEALING DIRECTLY WITH BNC DEBTS BUT COULD RESULT IN DEALING WITH THE RESIDUAL OF FEES DERIVING FROM LEGAL PROCEEDINGS CONNECTED WITH THE BNC CLOSING.

7. ADVISE.
BREWSTER

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